

## USEPA Region 9 Comments on the Final Prospectus for the proposed Elizabeth Lake Mitigation Bank

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### **Elizabeth Lakes Final Prospectus**

Overall, the property appears to have the potential to provide compensatory mitigation credits for unavoidable impacts to waters of the US that are approved by Corps permits. The proposed bank includes opportunities to improve a variety of habitat types, including improving wetland and riparian functions, and the unique opportunity to restore alluvial fan processes in the upper Santa Clara River watershed on a parcel that is largely surrounded by National Forest Lands. In general, the Prospectus and appendices provides both narrative and graphic information that is very helpful in describing the existing site, natural resources and potential improvements. Suggestions for additional information, clarifications and corrections are provided to assist with the development of the Draft Instrument.

**Section 5.4 Site History and Surrounding Land Uses:** What is the zoning, and what are any planned uses for the land north of Elizabeth Lake Road located between the western isolated portion of the bank, and the eastern area within the Angeles National Forest? It appears that a school, or school district buildings are present along with several roads. Is there future development planned here and is there a need to put measures in place to avoid impacts to the bank from existing or future land uses north of the road?

**Section 5.6 Existing Easements and Encumbrances:** Easements are discussed, including the Department of Agriculture's easement for the South Portal Road for potential access to the Angeles National Forest. For clarification, the description locates the road and easement in Lucky Canyon when in fact it is Munz Canyon. More importantly, how likely is it that the easement can be moved and if so, where to? The current placement obviously poses a potential limitation to the restoration of natural alluvial fan processes. Are there opportunities to relocate it and avoid limiting the intended purpose of the fan restoration.

Do any of the transportation or utility easements allow operations and maintenance activities that warrant including a buffer between the easement and creditable areas of the bank? Further discussion of this may be warranted in the Instrument as part of the credit determination approach.

Was the result of the remoteness opinion, for the parcels where mineral rights are not owned by the sponsor, that the potential for mineral development is negligible or not? It would be good to further explain the results in the instrument.

## Section 6.0 Bank Development and Crediting:

The figure numbers identified are off for each of the habitat descriptions. Should be 12, 13 and 14, not 11, 12 and 13.

The northwest diamond shaped parcel appears to have a very limited area of what may be a jurisdictional water adjacent to Elizabeth Lake Road. This feature is probably not well suited to provide 404 credits due to its proximity to the road.

**Alluvial fan** restoration opportunities in Lucky and Munz Canyon may be appropriate for 404 credits but the specific design approach should be described (presumably from among the Geomorphology Report alternatives), including what the resulting impacts to existing ephemeral drainage and any other associated habitats would be.

Figure 4 in Appendix A identifies 1.4 acres of dry wash and 5.25 acres of dry wash active floodplain as "Potential Section 404 Non-Wetland Waters Features". Similarly, the Delineation Report includes a figure of biological communities with Corps jurisdiction that identifies the same areas as "Extent of Corps Jurisdiction". Has the Corps made a determination whether these areas are in fact jurisdictional?

How would credits be determined if the approach is limited to passive restoration from removing the dams?

Munz Canyon: If an agreement cannot be made to move the South Portal Road easement, then how will the plan to restore alluvial fan proceed? Are there viable options for relocating the easement and if so, what impacts would a new alignment incur on existing resources?

Also, the 1948 pre-dam aerial photo shows an active channel following a similar alignment to the existing, incised channel, yet this channel would be filled as part of the bank, presumably resulting in a gap between the channel upstream and downstream. If this is the case, it appears that filling the incised channel would actually result in permanent impacts to a portion of the historically natural channel alignment. These impacts should be accounted for.

Lucky Canyon: Will modifications at Lucky require excavation or other activities on National Forest lands and are National Forest personnel open to permitting these activities? Generating credits from work on National Forest lands would be complicated.

How will the Lucky Canyon fan restoration prevent the existing Painted Turtle concrete channel from capturing and concentrating flows coming off the restored fan?

**Emergent marsh** would be created along southern shore of the lake by building an "expanded shelf". Presumably this would be done by placing fill in the lake. What is the reason(s) that the emergent marsh is thinner in this area and are there physical processes that would result in the expanded shelf not being sustainable? For example, wave erosion due to prevailing winds and lake circulation patterns. What will the impacts be to existing resources?

**Seasonal wetlands** will be “established” in upland areas where groundwater and clay soils are appropriate. Are these going to be restored from former degraded wetlands or will they be newly created wetlands? Will the roads and existing structures (for animals?) south of the proposed emergent marsh expansion area remain or will they be removed, and if they are to remain, will they have a negative effect on the proposed seasonal seeps?

**Riparian woodland** is proposed in an existing break “in the center of the property” but figure 14 shows restoration at the western extent of the property. Please verify that the only riparian restoration area proposed is that indicated on figure 14 and correct the narrative description to avoid confusion. There are some thin riparian areas closer to the center of the proposed bank property near the emergent marsh enhancement area that could also provide restoration opportunities. Why isn’t this area selected?

Also, is it possible to get an easement for the area along the western end of the lake that is just outside the bank that would allow for additional riparian enhancement opportunity?

### **Section 7.1 Service Areas:**

The service area discussion in the instrument should be updated to reflect that the LA District has adopted the cited 2010 Sacramento District Service Area Guidance.

More justification for the large wetland and riparian service area should be provided. Currently there is very little discussion from either an ecological or economic perspective. As stated in the Guidance, the level of justification should be commensurate with the scale at which the service area would go beyond the HUC-10 where the bank is located. In this case, the proposed service area includes eight additional HUC-10 watersheds in the Santa Clara River HUC-8 watershed plus two HUC-10 watersheds that are outside the Santa Clara River HUC-8. Consistent with the Rule, the service area must be sized to ensure the improvements at the bank will offset ecological impacts across the entire service area. The sponsor should provide additional information that clarifies how the improvements at the bank will offset impacts across the entire service area and should clearly describe how this will also apply to the Ventura and Los Sauces Creek watersheds to the north.

For desert wash and alluvial fan, the service area omits the Ventura River and Los Sauces Creek watersheds and adds the LA County portion of the Antelope Valley HUC-8 watershed. Similar to the proposed service area for wetland and riparian habitats, the instrument should further define how alluvial fan restoration at the site will offset ecological impacts across the entire HUC-8 Santa Clara River watershed and the LA County portion of the HUC-8 Antelope Valley watershed. Regarding Antelope Valley, it seems rather arbitrary to use a political boundary like the LA County border for determining the service area. This should be explained further.

Should reference figure 15, not 14 for the service area boundary and 16, not 15 for the Antelope Valley service area.